

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

G.M.,

Petitioner,

v.

THE SUPERIOR COURT OF MERCED  
COUNTY,

Respondent;

MERCED COUNTY HUMAN SERVICES  
AGENCY,

Real Party in Interest.

F072289

(Super. Ct. No. JP001002)

**OPINION**

**THE COURT\***

ORIGINAL PROCEEDING; petition for extraordinary writ review. Brian L. McCabe, Judge.

Sean P. McLeod, under appointment by the Court of Appeal, for Petitioner.

No appearance for Respondent.

James N. Fincher, County Counsel, and Kimberly R. Helms, Deputy County Counsel, for Real Party in Interest.

-ooOoo-

---

\* Before Levy, Acting P.J., Gomes, J. and Detjen, J.

G.M. (father) seeks extraordinary writ relief from the juvenile court's orders terminating his reunification services and setting a Welfare and Institutions Code section 366.26 hearing<sup>1</sup> as to his 14- and 12-year old daughters, J. and Jasmine respectively, at a contested 12-month review hearing (§ 366.21, subd. (f)). Father contends the juvenile court erred in finding he was provided reasonable services. We deny the petition.

### **PROCEDURAL AND FACTUAL SUMMARY**

Father and I.M. (mother), a married couple, are the parents of J. and Jasmine, the subjects of this writ petition. Father is the presumed father of the girls and his brother, Samuel, is their biological father. Father, mother and Samuel are Spanish-speaking.

Dependency proceedings were initiated in February 2014 when then 12-year-old J. disclosed that Samuel sexually molested her. At the time, she and Jasmine were living with Samuel in Merced. Father and mother were living in Los Angeles. J. said she told her mother and father about the sexual abuse but they did not take any action to protect her and her sister. Samuel was arrested and the girls were taken into protective custody by the Merced County Human Services Agency (agency). The girls were ultimately placed in the home of a non-related extended family member.

In May 2014, the juvenile court exercised its dependency jurisdiction over the girls after sustaining allegations of sexual abuse and neglect and ordered reunification services for mother and father. The court did not order services for Samuel. Father's services plan required him to complete a minimum of 15 weeks of sexual abuse awareness counseling services to address J.'s sexual abuse and his failure to protect her. He was to complete the counseling at the Low Cost Community Counseling Center (hereafter "community counseling center") or another counseling program approved by the assigned social worker. Father was provided a copy of his services plan in the

---

<sup>1</sup> All statutory references are to the Welfare and Institutions Code.

Spanish language. The juvenile court set the six-month review hearing for November 2014.

The social worker referred father to the community counseling center for sexual awareness counseling in accordance with his services plan. However, neither he nor mother had initiated counseling by the six-month review of services in November 2014.

The juvenile court conducted the six-month review hearing in December 2014 and continued father and mother's reunification services to the 12-month review hearing which it set for June 2015.

In December 2014, the social worker referred father again to the community counseling center and preapproved payment for an assessment. In March 2015, the social worker asked father if he had started counseling. He said he had not, that he worked during the week and did not have time. In late June, father signed up for sexual abuse awareness counseling at West Advisory Christian Counseling Center.

In its report for the 12-month review hearing, the agency recommended the juvenile court terminate reunification services for father and mother for noncompliance and set a section 366.26 hearing. The agency also provided a letter from J. and Jasmine's therapist who stated they felt happy and safe living with their care provider who was willing to be their legal guardian.

In September 2015, father testified at a contested 12-month review hearing about his difficulty locating sexual awareness classes taught in Spanish. He said he went to the community counseling center but no one there spoke Spanish. He informed his social worker who said she would check into the matter. Instead of waiting, however, he looked for a program on his own. After three or four months, he located the West Advisory Christian Counseling Center which offered the classes he needed in the Spanish language. He enrolled and had attended seven of the required 15 classes to complete the program. On cross-examination, he said it took him a year to find the counseling program.

At the conclusion of the hearing, the juvenile court found that the agency provided father and mother reasonable reunification services and ordered them terminated. The court found that father's testimony that he could not find a Spanish-speaking class was not credible given his prior statement that he worked and did not have time to participate in the counseling. The court set a section 366.26 hearing. This petition ensued.

### **DISCUSSION**

“‘[O]ur sole task on review is to determine whether the record discloses substantial evidence which supports the juvenile court's finding that reasonable services were provided or offered.’” (*In re Julie M.* (1999) 69 Cal.App.4th 41, 46.) “In making this determination, we recognize that all conflicts are to be resolved in favor of the prevailing party and that issues of fact and credibility are questions for the trier of fact,” and that as a reviewing court we “may not reweigh the evidence when assessing the sufficiency of the evidence.” (*In re Jasmine C.* (1999) 70 Cal.App.4th 71, 75.)

“Services will be found reasonable if the Department has ‘identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the parents during the course of the service plan, and made reasonable efforts to assist the parents in areas where compliance proved difficult....’” (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 972-973.) Services, however, will rarely be perfect; accordingly, “[t]he standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.” (*Melinda K. v. Superior Court* (2004) 116 Cal.App.4th 1147, 1159.)

Father contends the agency made no effort to help him find a Spanish-speaking counselor to assist him in sexual abuse awareness, leaving him to find one on his own. Such failure on its part, he argues, compels a finding he was not provided reasonable services. We disagree.

The agency referred father to a community counseling center for sexual abuse awareness counseling following the dispositional hearing in May 2014. When he failed to enroll in counseling there by the six-month review hearing in December 2014, the social worker referred him there again. Father delayed at least another three months before contacting the center only to discover that there were no Spanish-speaking counselors<sup>2</sup> there. No one disputes that there were no such counselors there and the record does not explain why. However, it is also undisputed that father waited a full year into the reunification process to pursue the required counseling.

Father faults the agency for not taking the lead in finding a suitable counselor once it was discovered that the center was no longer an option. While it is true that the agency bears the responsibility for facilitating access to services, it is also true that “the reasonableness of the services provided may depend to some degree upon the parent’s willingness to cooperate in the completion of his or her reunification plan.” (*In re K.C.* (2012) 212 Cal.App.4th 323, 330 (*K.C.*).)

In this case, father knew he needed to complete a minimum of 15 weeks of sexual abuse awareness counseling in order to reunify with his daughters. To assist him, the agency referred him to a specific program. All he needed to do was make contact. Had he done so when he was first referred, he would have known then whether the center provided the service he needed. If it did, in all probability, he would have completed it much sooner. If it did not, he could have solicited the assistance of the social worker to find a suitable provider. By waiting as long as he did and then discovering that a suitable provider was not readily available, he risked being noncompliant at the 12-month review

---

<sup>2</sup> According to the record, father told the social worker in March 2015 that he had not pursued counseling because he did not have time. It stands to reason, based on that statement that he had not yet attempted to enroll in counseling at the center. Otherwise, he would have told the social worker then that there were no Spanish-speaking counselors there.

hearing. Ultimately, father's inability to complete his services and the resultant termination of reunification efforts had more to do with his lack of cooperation and delay than unreasonableness on the part of the agency.

Father contends, nevertheless, he should not be held responsible for *any* of the delay because his language barrier (Spanish) interfered with his ability to access suitable counseling services on his own. He likens his circumstances to those of the appellant (father) in *K.C.* in which the appellate court reversed the juvenile court's reasonable services finding. The facts in *K.C.*, however, are easily distinguishable. The father in that case was required to be assessed for psychotropic medication as part of his services plan. When he had not done so by the review hearing, the juvenile court terminated his reunification services. (*K.C.*, *supra*, 212 Cal.App.4th at pp. 325-328.) The appellate court reversed, concluding that aspects of father's mental illness contributed to his inability to obtain treatment and that the department acted unreasonably by leaving it to him to find and obtain a psychotropic assessment rather than arranging one for him. (*Id.* at pp. 330-334.)

Here, there is no evidence indicating that father's delay in arranging for counseling was attributable to his inability to effectively communicate. Rather, the evidence pointed to his unwillingness to work it into his schedule.

We conclude substantial evidence supports the juvenile court's finding, father was provided reasonable reunification services and deny the petition.

### **DISPOSITION**

The petition for extraordinary writ is denied. This opinion is final forthwith as to this court.